

AMENDED IN ASSEMBLY APRIL 1, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1135**

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**Introduced by Assembly Member Mullin**

February 22, 2013

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An act to amend Section ~~3004~~ 3106 of, *and to repeal and add Section 3019 of*, the Elections Code, relating to elections.

LEGISLATIVE COUNSEL'S DIGEST

AB 1135, as amended, Mullin. Vote by mail ~~ballots: military or overseas voters~~ signature verification.

*Existing law sets forth procedures for processing vote by mail ballots and requires that a county elections official, upon receiving a vote by mail ballot, compare the signature on the vote by mail ballot's identification envelope with the signature on the voter's affidavit of registration or the signature on the voter's application for a vote by mail ballot, as specified.*

*This bill would revise and recast these provisions and would provide that a county elections official would also be permitted to compare the signature on the identification envelope with the signature appearing on any supporting document that contains the voter's signature and is part of the voter's registration record.*

*Existing law sets forth procedures for voting by military or overseas voters, as defined, and permits a military or overseas voter to return his or her ballot by facsimile transmission, accompanied by an oath of voter declaration that includes the voter's signature. Existing law requires that a county elections official, upon receiving the ballot of a military or overseas voter returned by facsimile transmission, compare*

*the signature on the oath of voter declaration with the signature on the voter's affidavit of registration.*

*This bill would provide that a county elections official would also be permitted to compare the signature on the oath of voter declaration with the signature appearing on any supporting document that contains the voter's signature and is part of the voter's registration record.*

~~Existing law requires a county elections official to place a notice in any office within the county where applications are taken for federal passports or where military enlistments are received to inform potential military or overseas voters of their right to a vote by mail voter's ballot and where registration materials and application forms can be obtained.~~

~~This bill would additionally require the elections official to place the notice in any office within the county where county or municipal fines can be paid.~~

~~By increasing the duties of local elections officials, the bill would impose a state-mandated local program.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~yes~~-no.  
State-mandated local program: ~~yes~~-no.

*The people of the State of California do enact as follows:*

- 1     ~~SECTION 1. Section 3019 of the Elections Code is repealed.~~
- 2     ~~3019.—Upon receipt of the vote by mail ballot the elections~~
- 3     ~~official shall compare the signature on the envelope with that~~
- 4     ~~appearing on the affidavit of registration and, if they compare,~~
- 5     ~~deposit the ballot, still in the identification envelope, in a ballot~~
- 6     ~~container in his or her office. A variation of the signature caused~~
- 7     ~~by the substitution of initials for the first or middle name, or both,~~
- 8     ~~shall not invalidate the ballot. If the ballot is rejected because the~~
- 9     ~~signatures do not compare, the envelope shall not be opened and~~
- 10    ~~the ballot shall not be counted. The cause of the rejection shall be~~
- 11    ~~written on the face of the identification envelope.~~

1 If the elections official has compared the signature of the voter's  
2 application with the affidavit pursuant to Section 3009, the  
3 application may be used rather than the affidavit to make the  
4 signature check required by this section.

5 No ballot shall be removed from its identification envelope until  
6 the time for processing. No ballot shall be rejected for cause after  
7 the envelope has been opened.

8 In determining from the records of registration if the signature  
9 and residence address on the identification envelope appear to be  
10 the same as that on the affidavit of registration, the elections official  
11 or registrar of voters may use the duplicate file of affidavits of  
12 registered voters or the facsimiles of voters' signatures, provided  
13 that the method of preparing and displaying the facsimiles complies  
14 with the law.

15 *SEC. 2. Section 3019 is added to the Elections Code, to read:*

16 *3019. (a) Upon receipt of a vote by mail ballot, the elections*  
17 *official shall compare the signature on the identification envelope*  
18 *with any of the following to determine whether the signatures*  
19 *compare:*

20 *(1) The signature appearing on the voter's affidavit of*  
21 *registration.*

22 *(2) The signature appearing on the voter's vote by mail ballot*  
23 *application, provided the elections official has compared the*  
24 *signature on the voter's vote by mail ballot application with the*  
25 *signature on the voter's affidavit of registration pursuant to Section*  
26 *3009.*

27 *(3) The signature appearing on any supporting document that*  
28 *contains the voter's signature and is part of the voter's registration*  
29 *record.*

30 *(b) In comparing signatures pursuant to subdivision (a), the*  
31 *elections official may use the duplicate file of affidavits of*  
32 *registered voters or facsimiles of voters' signatures, provided that*  
33 *the method of preparing and displaying the facsimiles complies*  
34 *with the law.*

35 *(c) (1) If upon conducting the comparison of signatures pursuant*  
36 *to subdivision (a) the elections official determines that the*  
37 *signatures compare, he or she shall deposit the ballot, still in the*  
38 *identification envelope, in a ballot container in his or her office.*

39 *(2) If upon conducting the comparison of signatures pursuant*  
40 *to subdivision (a) the elections official determines that the*

1 *signatures do not compare, the identification envelope shall not*  
2 *be opened and the ballot shall not be counted. The cause of the*  
3 *rejection shall be written on the face of the identification envelope.*

4 *(d) The variation of a signature caused by the substitution of*  
5 *initials for the first or middle name, or both, shall not be grounds*  
6 *for the elections official to determine that the signatures do not*  
7 *compare.*

8 *(e) A ballot shall not be removed from its identification envelope*  
9 *until the time for processing ballots. A ballot shall not be rejected*  
10 *for cause after the identification envelope has been opened.*

11 *SEC. 3. Section 3106 of the Elections Code is amended to read:*

12 3106. (a) A military or overseas voter who is living outside  
13 of the territorial limits of the United States or the District of  
14 Columbia, or is called for military service within the United States  
15 on or after the final date to make application for a vote by mail  
16 ballot, may return his or her ballot by facsimile transmission. To  
17 be counted, the ballot returned by facsimile transmission shall be  
18 received by the voter's elections official no later than the closing  
19 of the polls on election day and shall be accompanied by an  
20 identification envelope containing all of the information required  
21 by Section 3011 and an oath of voter declaration in substantially  
22 the following form:

23  
24 OATH OF VOTER

25 I, \_\_\_\_\_, acknowledge that by returning my voted  
26 ballot by facsimile transmission I have waived my right to have my ballot  
27 kept secret. Nevertheless, I understand that, as with any vote by mail  
28 voter, my signature, whether on this oath of voter form or my identification  
29 envelope, will be permanently separated from my voted ballot to maintain  
30 its secrecy at the outset of the tabulation process and thereafter.

31  
32 My residence address is \_\_\_\_\_.  
33 (Street Address) (City) (ZIP Code)

34  
35 My current mailing address is \_\_\_\_\_.  
36 (Street Address) (City) (ZIP Code)

37  
38 My email address is \_\_\_\_\_. My facsimile transmission  
39 number is \_\_\_\_\_.

1  
2 I am a resident of \_\_\_\_\_ County, State of California, or am qualified  
3 as an elector pursuant to paragraph (2) of subdivision (b) of Section 321 of  
4 the Elections Code and I have not applied, nor intend to apply, for a vote by  
5 mail ballot from any other jurisdiction for the same election.  
6

7 I declare under penalty of perjury under the laws of the State of California  
8 that the foregoing is true and correct.  
9

10 Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

11  
12 (Signature) \_\_\_\_\_  
13 voter (power of attorney cannot be accepted)  
14

15 YOUR BALLOT CANNOT BE COUNTED UNLESS YOU SIGN THE  
16 ABOVE OATH AND INCLUDE IT WITH YOUR BALLOT AND  
17 IDENTIFICATION ENVELOPE, ALL OF WHICH ARE RETURNED  
18 BY FACSIMILE TRANSMISSION.  
19

20 (b) Notwithstanding the voter's waiver of the right to a secret  
21 ballot, each elections official shall adopt appropriate procedures  
22 to protect the secrecy of ballots returned by facsimile transmission.

23 (c) Upon receipt of a ballot returned by facsimile transmission,  
24 the elections official shall determine the voter's eligibility to vote  
25 by comparing the signature on the return information with the  
26 signature on the voter's affidavit of registration *or any supporting*  
27 *document that contains the voter's signature and is part of the*  
28 *voter's registration record*. The ballot shall be duplicated and all  
29 materials preserved according to procedures set forth in this code.

30 (d) Notwithstanding subdivision (a), a military or overseas voter  
31 who is permitted to return his or her ballot by facsimile  
32 transmission is, nonetheless, encouraged to return his or her ballot  
33 by mail or in person if possible. A military or overseas voter should  
34 return a ballot by facsimile transmission only if doing so is  
35 necessary for the ballot to be received before the close of polls on  
36 election day.

37 ~~SECTION 1. Section 3004 of the Elections Code is amended~~  
38 ~~to read:~~

39 ~~3004. The county elections official shall place a notice in any~~  
40 ~~office within the county where applications are taken for federal~~

1   passports, where military enlistments are received, or where county  
2   or municipal fines can be paid to inform potential military or  
3   overseas voters of their right to a vote by mail voter's ballot and  
4   where registration materials and application forms can be obtained.

5    SEC. 2. ~~If the Commission on State Mandates determines that~~  
6   ~~this act contains costs mandated by the state, reimbursement to~~  
7   ~~local agencies and school districts for those costs shall be made~~  
8   ~~pursuant to Part 7 (commencing with Section 17500) of Division~~  
9   ~~4 of Title 2 of the Government Code.~~